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HOUSE COMMITTEE REPORT

(7)
Date Referred: May 6, 1989

FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: 3/7/90

The ~~LABOR & COMMERCE~~ Committee considered:

~~HR 349~~

HOUSE BILL NO. 349

[APPROX MED MALPRACTICE INS. MATCHING FUND]

"An Act making a special appropriation to the Alaska medical malpractice matching fund for medical malpractice insurance premiums; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 349 the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the Judiciary Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]
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SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

	Do Not Pass	No Rec	Amend
[Signature]		<input checked="" type="checkbox"/>	
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Chairman's Signature

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



November 23, 1989

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: HB 349 - Appropriation for the Alaska Medical
Malpractice Matching Fund

HB 349 appropriates \$500,000 from the medical malpractice liability revolving loan fund (AS 21.88.210) to the Alaska Medical Malpractice Matching Fund established in HB 350. The matching fund consists of appropriations by the legislature and is administered by the Medical Indemnity Corporation of Alaska (MICA).

The initial \$500,000 appropriation will fund the first few years of the program although subsequent legislative appropriations may be necessary. Section 2 of the bill is a five year "sunset" clause providing that the unexpended and unobligated balance of the appropriation lapses into the general fund on July 1, 1995.

MICA representatives will testify on HB 349 and 350 during our November 29 and 30 public hearings. A Legislative Budget and Audit report on the medical malpractice revolving loan fund is included in your committee file.

dd/gbi89
b/hb349

STATE OF ALASKA

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

M E M O R A N D U M

DATE: June 13, 1989

TO: Chairmen of the Standing
Committees

FROM: Randy S. Welker *Randy*
Legislative Auditor
Division of Legislative Audit

SUBJECT: Release of Audits

On June 9, 1989, the Legislative Budget and Audit Committee approved for release to the public the enclosed audit report(s) which may be of interest to your Committee.

If you have any questions on the report(s), please contact our office (465-3830).

Enclosure(s)

<u>Funding Information</u>	
General Fund	\$500,000
Other Funds	-0-
	<u>\$500,000</u>

1 IN THE HOUSE

BY DONLEY AND GRUENBERG

2

HOUSE BILL NO. 349

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
7 medical malpractice matching fund for medical mal-
8 practice insurance premiums; and providing for an
9 effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. The sum of \$500,000 is appropriated to the Alaska medical
12 malpractice matching fund (AS 21.88.310), from unexpended and unobligated
13 funds repaid to the medical malpractice liability revolving loan fund
14 (AS 21.88.210), for the purpose of paying medical malpractice insurance
15 premiums.

16 * Sec. 2. The unexpended and unobligated balance of the appropriation
17 made by this Act lapses into the general fund July 1, 1995.

18 * Sec. 3. This Act takes effect on the effective date of the section of
19 an act enacted by the Sixteenth Alaska State Legislature that establishes
20 the Alaska medical malpractice matching fund (AS 21.88.310).

A REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND

For the Fiscal Years Ended June 30, 1988 and 1987

Audit Control Number

08-1361-89-R

Commissioner, Department of
Commerce and Economic Development

Larry Mercurieff

Deputy Commissioner, Department of
Commerce and Economic Development

Jeffrey W. Bush

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PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes, we conducted an audit of the Department of Commerce and Economic Development, Division of Insurance, Medical Malpractice Revolving Loan Fund, to determine:

1. If the financial statements present fairly the financial position, results of operation, and changes in financial position for the fiscal years ended June 30, 1988 and 1987.
2. The division's compliance with applicable state statutes and regulations governing the fund's fiscal activities.

ORGANIZATION AND FUNCTION

The Medical Malpractice Revolving Loan Fund (MMRLF), operating under the authority of AS 21.88.210-.900 since 1978, provides capital surplus for the Medical Indemnity Corporation of Alaska (MICA) to ensure the availability of a medical malpractice insurance program to health providers in Alaska. MMRLF has been capitalized since inception by direct appropriations from the General Fund currently totalling \$3,000,000.

MMRLF is administered by the Department of Commerce and Economic Development. Loans to provide surplus in respect to policyholders may not exceed a total of \$3,000,000 outstanding at any time, and interest shall be paid on the outstanding balance at a rate equal to 7% a year. These loans shall be repaid in annual installments of at least 25% of the excess of premiums earned over the total of claims, reserves, expenses, and assessments made by the association, if any. If MICA is unable to procure reinsurance from a private casualty insurer, additional loans of up to \$3,000,000 may be obtained. These additional loans must be repaid within five years at an annual interest rate of 6%.

MMRLF has made one loan to MICA for \$3,000,000 which has been sold to the Department of Revenue. As of June 30, 1988, principal repayments of \$597,714 have been made by the corporation reducing the principal outstanding on the first loan to \$2,402,286.

In addition, MICA was unable to procure reinsurance during FY 87. Therefore MMRLF made an additional loan of \$2,000,000. As of June 30, 1988, principal repayments of \$400,000 have been made by the corporation reducing the principal outstanding on the second loan to \$1,600,000.

FINDING AND RECOMMENDATION

Recommendation No. 1

The Department of Commerce and Economic Development should account for all related Medical Malpractice Revolving Loan Fund activity.

The Department of Commerce and Economic Development is accounting for interest revenue received on MMRLF's Division of Insurance-owned loan in one of the division's general fund collocation codes.

Although the interest should be credited to the General Fund as stated in the Notes to the Financial Statements, proper accounting and disclosure of the fund's activity requires that interest revenue initially be recorded in the fund. In a subsequent transaction or transactions, the revenue should then be transferred to the General Fund. Unless this entry or entries are done, revenues and expenses of the fund will be materially understated, and the financial statements will not reflect the true activity of the fund.

We recommend the department change their current procedures and coordinate with the Department of Administration, Division of Finance to ensure full disclosure is made of the fund's activity in its financial statements.

STATE OF ALASKA

THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

February 15, 1988

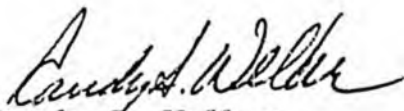
Members of the Legislative Budget
and Audit Committee:

Independent Auditor's Report

We have audited the comparative balance sheet of the Medical Malpractice Revolving Loan Fund as of June 30, 1988 and 1987, and the related comparative statements of revenues, expenses, and changes in fund equity, and changes in financial position (cash basis) for the years then ended. These financial statements are the responsibility of the agency's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Medical Malpractice Revolving Loan Fund as of June 30, 1988 and 1987, and the results of its operations and its changes in financial position (cash basis) for the years then ended in conformity with generally accepted accounting principles.


Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE BALANCE SHEET
June 30, 1988 and 1987

	<u>1988</u>	<u>1987</u>
<u>Assets</u>		
Cash	\$1,400,000	\$1,000,000
Loans Receivable	<u>1,600,000</u>	<u>2,000,000</u>
<u>Total Assets</u>	<u>\$3,000,000</u>	<u>\$3,000,000</u>
 <u>Fund Equity</u>		
Contributions From General Fund	<u>\$3,000,000</u>	<u>\$3,000,000</u>

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE STATEMENT OF REVENUES, EXPENSES, AND
CHANGES IN FUND EQUITY
For the Fiscal Years Ended June 30, 1988 and 1987

	<u>1988</u>	<u>1987</u>
<u>Revenues</u>		
Interest on Loans (Note 3)	\$ 107,574	\$ 60,164
<u>Expenses</u>	<u>-0-</u>	<u>-0-</u>
<u>Net Income</u>	107,574	60,164
<u>Transfers To Other Funds</u>	(107,574)	(60,164)
<u>Fund Equity at Beginning of Year</u>	<u>3,000,000</u>	<u>3,000,000</u>
<u>Fund Equity at End of Year</u>	<u>\$3,000,000</u>	<u>\$3,000,000</u>

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE STATEMENT OF CHANGES IN FINANCIAL POSITION
(CASH BASIS)

For the Fiscal Years Ended June 30, 1988 and 1987

	<u>1988</u>	<u>1987</u>
<u>Resources Provided</u>		
Net Income	\$ 107,574	\$ 60,164
Decrease in Due From Other Funds	-0-	3,000,000
Decrease in Loans Receivable	400,000	-0-
<u>Total Resources Provided</u>	<u>507,574</u>	<u>3,060,164</u>
<u>Resources Used</u>		
Transfers To Other Funds	107,574	60,164
Increase in Loans Receivable	-0-	2,000,000
<u>Total Resources Used</u>	<u>107,574</u>	<u>2,060,164</u>
<u>Increase in Cash</u>	400,000	1,000,000
<u>Cash at July 1</u>	<u>1,000,000</u>	<u>-0-</u>
<u>Cash at June 30</u>	<u>\$1,400,000</u>	<u>\$1,000,000</u>

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
NOTES TO THE FINANCIAL STATEMENTS
For the Fiscal Years Ended June 30, 1988 and 1987

Note 1 - Summary of Significant Accounting Policies

The financial statements are prepared on the accrual basis of accounting. Revenues are recognized at the time they are earned. Expenses are recognized when incurred.

Note 2 - Loan Information

There is currently one loan of \$3,000,000 outstanding which has been purchased by the Department of Revenue. The loan has an indefinite repayment period at an interest rate of 7%. The Medical Indemnity Corporation of Alaska (MICA) must pay a late charge of 4% on any installment not received within 15 days of its due date. As of June 30, 1988, principal repayments of \$597,714 have been made by the corporation reducing the principal outstanding to \$2,402,286.

There is an additional loan of \$2,000,000 outstanding. This loan is to be repaid within five years at an annual interest rate of 6%. MICA must pay a late charge of 4% on any installment not received within 15 days of its due date. As of June 30, 1988, principal repayments of \$400,000 have been made by the corporation reducing the principal outstanding on the second loan to \$1,600,000.

Hence, loans to MICA total less than the aggregate \$6,000,000 allowable by AS 21.88.210(b)(2).

Note 3 - Interest Receipts

The Medical Malpractice Revolving Loan Fund (MMRLF) does not retain any of the interest receipts as revenue to the fund. Alaska Statute 21.88.210-.900 which established the fund, requires that repayments of principal be credited to the fund but is silent as to the treatment of interest. It is the Division of Insurance's position that the original intent of MMRLF was not to retain interest receipts, but rather that they be forwarded to the General Fund for reappropriation by the Legislature.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

April 25, 1989

RECEIVED
MAY -1 1989

LEGISLATIVE
AUDIT

Mr. Randy S. Welker
Legislative Auditor
Division of Legislative Audit
P.O. Box W
Juneau, AK 99811-3300

Dear Mr. Welker:

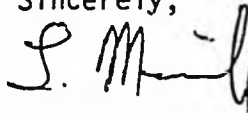
I have received a copy of your "Confidential" preliminary audit report on:

"A Report on the Department of Commerce and Economic Development, Division of Insurance, Medical Malpractice Revolving Loan Fund, for the Fiscal Years Ended June 30, 1988 and 1987."

I concur with the recommendation made regarding the accounting of interest received on the division's loan. Procedures will be changed to reflect the receipt of interest into the loan fund and a subsequent transaction will transfer the interest to the General Fund. The department's Division of Administrative Services, which processes these interest payments, will coordinate the procedural change with the Division of Finance.

I would like to take this opportunity to compliment your staff on their efforts and for the smoothness with which the audit was conducted.

Sincerely,



Larry Merculieff
Commissioner

LM/wfs0315q
42589a

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 143-3991
Fax: (907) 143-3351

HB 349

November 15, 1989

MEMORANDUM

TO: Representative Dave Donley

ATTN: Ginger Baim

FROM: Patricia Young ^{py}
Legislative Analyst

RE: Medical Malpractice Insurance Premiums
Research Request 90.124

You asked this agency to ascertain whether any states have passed or are considering legislation which would prohibit insurers from classifying physicians into more than four groups for the purposes of determining medical malpractice liability premiums. You also wished to know the number of classifications used by insurers for Alaska physicians; the average cost of liability insurance for each class of physicians; and the estimated average cost if classifications were limited to four.

In addition, you asked if any states besides Arizona have adopted or are considering legislation which would create a matching fund to pay a portion of the cost of medical malpractice liability insurance premiums for physicians. You also wished to know how such laws are structured, i.e., whether assistance is limited to certain physician specialties, and whether assistance is based on a "sliding scale" of need or on a flat amount.

Limiting Classifications of Physicians

The limiting of classifications of physicians has been suggested by the National Insurance Consumer Organization (NICO) as a way of spreading the cost of malpractice insurance across a broader base of payees. This is one of several changes suggested by Robert Hunter, NICO president. (See Attachment A, "How to Solve the Medical Malpractice Crisis.") Neither Bob Boerner, of the National Council of State Legislatures (NCSL), nor Carol Brierly Golin, editor of the *Medical Liability Monitor*, which tracks state legislation in this area, are aware of any states which have enacted or are considering such legislation.

NOV 29 89 13:16 HR LEG RESEARCH HH P.4/4
Representative Donley
November 29, 1989
Page 3

qualification, and no financial need must be demonstrated on the part of the physicians. The major criteria for qualification is that a physician practice in a rural area. The fund is used to subsidize the difference between premiums which include obstetrical care coverage and premiums without such coverage, for gynecologists and general practitioners. The maximum subsidy per physician is \$30,000. Despite the informal nature of the requirements, only seven physicians are currently receiving this assistance.

Arizona has recently passed legislation to appropriate \$195,000 from the state general fund to be used for financial assistance to physicians who provide obstetrical services in rural areas identified as obstetrically underserved. Family physicians who perform fewer than 50 deliveries per year are eligible to receive up to \$5,000 per year; family physicians who perform more than 50 deliveries per year are eligible to receive up to \$10,000 per year; obstetricians are also eligible to receive up to \$10,000 per year.

North Carolina last year appropriated \$240,000 to provide assistance to obstetricians and family practice physicians who provide prenatal and obstetrical services in areas of the state that are underserved in this regard. Regulations require that qualifying physicians may not refuse care to patients based on their ability to pay. According to Bob Burns, assistant director of government affairs, North Carolina State Medical Society, the fund subsidizes the difference between premiums with obstetrical care coverage and premiums without such coverage, with a maximum subsidy of \$6,500 per physician. Funding has been continued at the same level for the current year. Mr. Burns noted that because the state has one of the highest infant mortality rates in the nation, proponents of this program are urging the legislature to increase the appropriation so that more physicians can participate.

In Montgomery County, Maryland, obstetricians are considered part-time county employees and are covered by the county's liability insurance when treating patients referred by the county. Physicians are covered by their own insurance when treating private patients. This program helps assure access to care for the medically indigent--patients who are frequently more high risk due to lack of prenatal care. According to Ken Heland, associate director of the American College of Obstetricians and Gynecologists and head of the Department of Professional Liability, in Maryland, insurance premiums are based partially on the number of deliveries physicians perform. Premiums for private practice have dropped because deliveries performed for county patients are not counted in liability calculations.

Copies of the Arizona and North Carolina bills are included in Attachment D. I hope you find this information useful.

Attachments

Representative Donley
November 29, 1989
Page 2

The Medical Indemnity Corporation of Alaska (MICA), which insures approximately 50 percent of Alaska's physicians, groups them into seven classes. As you will observe from MICA's current coverage and premium schedules (Attachment B), various factors determine cost. Averaging the cost of liability insurance per classification is possible; however, according to Art Stanford, MICA underwriting manager, such averaging will not reflect the actual experience of Alaska physicians. Mr. Stanford estimates that, by far, the greatest number of physicians are in the lower classifications, and he is unable to estimate the effect of limiting classifications.

The Medical Insurance Exchange of California (MIEC) insures the next greatest percentage of Alaska's physicians, with approximately 21 percent. This company groups physicians into ten classes. A copy of MIEC's current coverages and premiums schedules is Attachment C. According to Barbara Barnett, assistant underwriting manager, averaging actual premiums paid for each class would not be meaningful; averaging the cost per physician if classes were limited to four would likewise not produce meaningful information.

Such a change would result in less variation in premiums and would spread the cost of malpractice insurance across a broader base of payees; however, both Mr. Stanford and Ms. Barnett noted that a large number of physicians in low risk practice would be dissatisfied at subsidizing those in high risk practice, and they questioned the efficacy of the state's limiting classes with such a relatively small pool of physicians.¹ Ms. Barnett also commented that such legislation could adversely affect insurance availability because carriers might leave the state.

Obstetrical Care Incentive Programs

According to Ms. Golin, Hawaii, Arizona, and North Carolina have established funds to assist certain physicians with liability insurance premiums. Programs vary, but in each case the emphasis is on assistance for physicians who perform obstetrical services. A related program has also been initiated at the municipal level in Montgomery County, Maryland.

Hawaii was the first state to provide assistance of this kind. According to Becky Kendall, assistant executive director of the Hawaii Medical Association, the state legislature in 1986 appropriated \$125-\$150,000 to subsidize those physicians in rural areas who perform obstetrical services. Applying physicians must submit copies of their insurance premiums, information on the number of Medicaid cases handled, and verification of the annual number of deliveries performed. Ms. Kendall noted that the requirements are "quite informal." No specific percentage of indigent care is necessary for

¹Although 905 physicians hold active licenses in the state, fewer may be practicing.